

**Testimony of Kendall Wiggin  
State Librarian  
Connecticut State Library  
Concerning Senate Bill 246  
"An Act Concerning the Protection of State and Municipal Essential Records and the  
Preservation of Electronic Records"  
Committee on Government Administration and Elections – Public Hearing  
March 10, 2014**

Good afternoon Senator Musto, Representative Jutila and distinguished members of the Government Administration and Elections Committee. My name is Kendall Wiggin and I am the State Librarian. I am here today to speak in favor of S.B. 246.

**Section 1 of the bill addresses Permanent records in electronic format**

Currently, CGS 1-9 requires that permanent records be maintained on paper that meets standards that ensure their longevity. It is necessary that we also require that permanent records in an electronic format be maintained according to standards that will ensure their longevity. The standards for the authentication and preservation of electronic documents are being established by the State Librarian, pursuant to section CGS 11-4d. We support updating the listed items that relate to the creation and preservation of records, by adding the term "electronic file formats."

**Section 2 of the bill addresses Official Record Copies**

Technology has changed the way government creates, maintains and distributes information. Given the proliferation of duplicate paper and electronic copies of documents, it is important for a public agency to be able to distinguish between the official version of a record which supports the agency's legal authority and those copies created for information sharing and workflow. The official record copy is necessary for purposes of authentication, preservation and records retention. This designation becomes more significant as state agencies and municipalities begin implementing enterprise content management systems, such as FileNet, to manage both electronic and paper records and adopt e-government technologies. The definition of a "public record" in CGS 1-200(5), while appropriate for FOI purposes, is too broad for this purpose. Building on that definition, this designation ensures that the official copies of records can be properly managed and maintained.

**Section 3 of the bill eliminates obsolete provisions of CGS 11-8 and expands authority concerning the preservation of electronic documents**

We support the proposed elimination of provisions of CGS section 11-8 that were written in the 1960s and have now become obsolete. The State Library no longer provides copying and microfilming services or document conservation services to state or local agencies. These services were phased out decades ago. Instead, agencies contract with qualified vendors. Similarly, there is no need for our agency to establish the physical characteristics for typewriter ribbons, carbon papers, and loose-leaf binders.

Regarding fire-resistive storage for municipal records, we believe the original language regarding "safes, cabinets, vaults and file rooms" was included in 1967 so that regulations governing municipal vaults and safes could be established. In 1969, the State Library adopted the *Standard for Fire-Resistive Vaults and Safes, Connecticut Agencies Regulations Sections 11-8-1 through 11-8-12*.

The State Library is currently updating the existing regulation governing vaults and safes, and it is important to remove the term "file room." It is important that the State Library regulate municipal vaults and safes, as these must be specifically designed and constructed to provide an unusually high degree of fire resistance. While the term "cabinet" is generally accepted as a type of safe, the term "file room," in modern usage, refers to a storage room that would be regulated differently than a vault.

File rooms are generally used to store inactive, shorter term records, while vaults and safes protect essential and permanent records. File rooms must meet existing building codes for safe construction. We do not feel it is necessary for the State Library to add new regulations governing their design and construction. We, therefore, support removing the term "file room" from section 11-8.

A new file room regulation would become burdensome for the towns, as it would add many new requirements concerning construction, planning, reviews and inspections of these rooms. While most towns have only one or two vaults located in the town hall, they may have any number of file rooms located throughout their many town facilities. It would become burdensome for State Library staff as well to manage these many additional reviews and ongoing inspections at current staffing levels.

We support removing the requirement that the Public Records Administrator publish a list of acceptable brands of paper that meet the ANSI standards for permanent paper. This system was discontinued many years ago as it is impractical to maintain and update such an extensive list of brand names. Currently, the Public Records Administrator provides agencies with information about the required standards and explains how to check that paper meets the standards, if it is not already clearly stated in the paper specifications.

#### **Section 4 of the bill addresses Essential Records**

Hurricane Katrina and Superstorm Sandy demonstrated how the catastrophic loss of government records can profoundly impact every aspect of citizens' daily lives. These storms destroyed entire town halls, other government buildings and private institutions, which resulted in the destruction of critical records that document property ownership, legal identities, and citizenship, as well as educational and training records necessary for employment.

Connecticut's governmental agencies have so far been spared the loss of records due to recent natural disasters. This has been particularly fortunate, given the above average number of events in the past 36 months, including tornadoes, an earthquake, record snow falls, as well as Hurricane/Tropical Storm Irene and Superstorm Sandy. However, floods and fires have claimed local government and state agency records in the past, and natural disasters will continue to pose risks in the future.

Man-made disasters also lead to the loss of government records. Not long ago, a municipality lost a significant quantity of emails and many other records after its computer system and back-ups crashed

late on a Friday afternoon, due to hot temperatures in an unmonitored server room. The municipality faced significant records recovery costs; some of the records were unrecoverable.

In a natural disaster or other emergency, records are critical to the emergency management cycle of mitigation, preparedness, response and recovery. Government agencies must continue to operate and provide essential services regardless of conditions: exercising civil authority, protecting civil rights, maintaining public safety and well-being, and sustaining the state's industrial economic base.

FEMA's Continuity Guidance Circular 1 provides direction to state and local governments on the development of continuity of operations plans and programs. In July 2013, FEMA added essential records management to this circular. Emergency operation plan templates being issued by FEMA now include an annex specifically for essential records. State agencies and municipalities will need the State Library's guidance to identify and manage their essential records, and the proposed changes in section 4 will enable the library to provide this guidance.

Administering an essential records program has been part of the State Library's statutory responsibilities since 1967. Originally, CGS 11-8a(a) referenced the civil defense advisory council, stating, *"in cooperation with the civil defense advisory council, carry out a program for the identification and preservation of essential records of the state and of its political subdivisions."* At that time, "essential records" were not defined and the original context was lost as subsequent statutory revisions eliminated the reference to civil defense authorities. This loss removed the important relationship between records management and emergency management. It is necessary at this time to re-establish the statutory relationship between the State Library and emergency management agencies and personnel.

The Public Records staff has begun identifying essential records common to many, if not all, state agencies and municipalities as part of the overall records retention process. The next step is to identify those essential records specific to the functions of each government agency. This action could be accomplished either through the records retention review process or through the continuity of operations planning process. Currently, each state agency and municipality must file a continuity of operations or emergency operations plan with DAS or DESPP respectively. The emphasis in recent years has been on expanding these plans to encompass all potential hazards.

The passage of this bill will clarify what constitutes an essential record and ensure that essential records are identified, protected and ultimately included in all state and local continuity of operations or emergency operations plans. The State Library and its Public Records staff are committed to working closely with DAS, DESPP and the individual agencies and municipalities to accomplish this in the most efficient and cost-effective manner.

#### **Recommended change to the bill**

After conferring with the Office of the Probate Court Administrator, the State Library requests that in section 4 of the bill, the probate districts be removed from the definition of "public agency" for the

purposes of CGS section 11-8. The State Library worked with Probate Administration on legislation, P.A. 12-66, to eliminate inconsistencies in establishing policy for the management of Probate Court records. Sections 18-21 of this Act revised Sections 1-18, 11-8, 11-8a, and 7-24 to eliminate many references to "probate districts." Section 23 of the Act clarified the authority of the Probate Court Administrator, in consultation with the Public Records Administrator, to issue and enforce regulations, or establish policies or retention schedules for the management, preservation and disposition of judicial records, papers and documents and administrative records maintained by the courts of probate.

The removal of the references to probate districts in section 4 will be consistent with the changes made in P.A. 12-66 and maintain the clarity of authority over the management and life cycle of the probate records that we achieved together in 2012.